

Article 4.

Venue; Petitions.

§ 7B-400. Venue.

(a) **(Effective until March 1, 2019)** A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the district in which the juvenile resides or is present. Notwithstanding G.S. 153A-257, the absence of a juvenile from the juvenile's home pursuant to a protection plan during an assessment or the provision of case management services by a department of social services shall not change the original venue if it subsequently becomes necessary to file a juvenile petition.

(a) **(Effective March 1, 2019)** A proceeding in which a juvenile is alleged to be abused, neglected, or dependent may be commenced in the judicial district in which the juvenile resides or is present at the time the petition is filed. If a regional social services department includes counties in more than one judicial district, the department shall file in the judicial district where the child resides or was present when the report required by G.S. 7B-301 was received. Notwithstanding G.S. 153A-257, the absence of a juvenile from the juvenile's home pursuant to a protection plan during an assessment or the provision of case management services by a department of social services shall not change the original venue if it subsequently becomes necessary to file a juvenile petition.

(b) When the director in one county conducts an assessment pursuant to G.S. 7B-302 in another county because a conflict of interest exists, the director in the county conducting the assessment may file a resulting petition in either county.

(c) For good cause, the court may grant motion for change of venue before adjudication. A pre-adjudication change of venue shall not affect the identity of the petitioner.

(d) Any change of venue after adjudication shall be pursuant to G.S. 7B-900.1. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2009-311, s. 2; 2013-129, s. 7; 2017-41, s. 4.4.)

§ 7B-401. Pleading and process.

(a) The pleading in an abuse, neglect, or dependency action is the petition. The process in an abuse, neglect, or dependency action is the summons.

(b) If the court has retained jurisdiction over a juvenile whose custody was granted to a parent and there are no periodic judicial reviews of the placement, the provisions of Article 8 of this subchapter shall apply to any subsequent report of abuse, neglect, or dependency determined by the director of social services to require court action pursuant to G.S. 7B-302. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2013-129, s. 8.)

§ 7B-401.1. Parties.

(a) **Petitioner.** – Only a county director of social services or the director's authorized representative may file a petition alleging that a juvenile is abused, neglected, or dependent. The petitioner shall remain a party until the court terminates its jurisdiction in the case.

(b) **Parents.** – The juvenile's parent shall be a party unless one of the following applies:

(1) The parent's rights have been terminated.

(2) The parent has relinquished the juvenile for adoption, unless the court orders that the parent be made a party.

- (3) The parent has been convicted under G.S. 14-27.21, 14-27.22, 14-27.23, or 14-27.24 for an offense that resulted in the conception of the juvenile.
- (c) Guardian. – A person who is the child's court-appointed guardian of the person or general guardian when the petition is filed shall be a party. A person appointed as the child's guardian pursuant to G.S. 7B-600 shall automatically become a party but only if the court has found that the guardianship is the permanent plan for the juvenile.
- (d) Custodian. – A person who is the juvenile's custodian, as defined in G.S. 7B-101(8), when the petition is filed shall be a party. A person to whom custody of the juvenile is awarded in the juvenile proceeding shall automatically become a party but only if the court has found that the custody arrangement is the permanent plan for the juvenile.
- (e) Caretaker. – A caretaker shall be a party only if (i) the petition includes allegations relating to the caretaker, (ii) the caretaker has assumed the status and obligation of a parent, or (iii) the court orders that the caretaker be made a party.
- (e1) Foster Parent. – A foster parent as defined in G.S. 131D-10.2(9a) providing foster care for the juvenile is not a party to the case and may be allowed to intervene only if the foster parent has authority to file a petition to terminate the parental rights of the juvenile's parents pursuant to G.S. 7B-1103.
- (f) The Juvenile. – The juvenile shall be a party.
- (g) Removal of a Party. – If a guardian, custodian, or caretaker is a party, the court may discharge that person from the proceeding, making the person no longer a party, if the court finds that the person does not have legal rights that may be affected by the action and that the person's continuation as a party is not necessary to meet the juvenile's needs.
- (h) Intervention. – Except as provided in G.S. 7B-1103(b) and subsection (e1) of this section, the court shall not allow intervention by a person who is not the juvenile's parent, guardian, or custodian, but may allow intervention by another county department of social services that has an interest in the proceeding. This section shall not prohibit the court from consolidating a juvenile proceeding with a civil action or claim for custody pursuant to G.S. 7B-200.
- (i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the young adult in foster care and the director of the department of social services are parties. (2013-129, s. 9; 2015-136, s. 2; 2015-181, s. 22; 2015-241, s. 12C.9(h); 2015-264, s. 33(a); 2016-94, s. 12C.1(f).)

§ 7B-402. Petition.

- (a) The petition shall contain the name, date of birth, address of the juvenile, the name and last known address of each party as determined by G.S. 7B-401.1, and allegations of facts sufficient to invoke jurisdiction over the juvenile. The petition may contain information on more than one juvenile when the juveniles are from the same home and are before the court for the same reason.
- (b) The petition, or an affidavit attached to the petition, shall contain the information required by G.S. 50A-209.
- (c) Sufficient copies of the petition shall be prepared so that copies will be available for each party named in the petition, except the juvenile, and for the juvenile's guardian ad litem, the social worker, and any person determined by the court to be a necessary party.
- (d) If the petition is filed in a county other than the county of the juvenile's residence, the petitioner shall provide a copy of the petition and any notices of hearing to the director of the department of social services in the county of the juvenile's residence. (1979, c. 815, s. 1; 1981,

c. 469, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2004-128, s. 11; 2005-320, s. 3; 2009-311, s. 3; 2010-90, s. 9; 2013-129, s. 10.)

§ 7B-403. Receipt of reports; filing of petition.

(a) All reports concerning a juvenile alleged to be abused, neglected, or dependent shall be referred to the director of the department of social services for screening. Thereafter, if it is determined by the director that a report should be filed as a petition, the petition shall be drawn by the director, verified before an official authorized to administer oaths, and filed by the clerk, recording the date of filing.

(b) A decision of the director of social services not to file a report as a petition shall be reviewed by the prosecutor if review is requested pursuant to G.S. 7B-305. (1979, c. 815, s. 1; 1981, c. 469, ss. 10, 11; 1998-202, s. 6; 1999-456, s. 60.)

§ 7B-404. Immediate need for petition when clerk's office is closed.

(a) When the office of the clerk is closed, a magistrate shall accept for filing the following:

- (1) A petition alleging a juvenile to be abused, neglected, or dependent.
- (2) A petition alleging the obstruction of or interference with an assessment required by G.S. 7B-302.

(b) The authority of the magistrate under this section is limited to emergency situations when a petition must be filed to obtain a nonsecure custody order or an order under G.S. 7B-303. Any petition accepted for filing under this section shall be delivered to the clerk's office for processing as soon as that office is open for business. (1979, c. 815, s. 1; 1987, c. 409, s. 3; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 10; 2017-161, s. 2.)

§ 7B-405. Commencement of action.

An action is commenced by the filing of a petition in the clerk's office when that office is open or by the acceptance of a juvenile petition by a magistrate when the clerk's office is closed, which shall constitute filing. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2017-161, s. 3.)

§ 7B-406. Issuance of summons.

(a) Immediately after a petition has been filed alleging that a juvenile is abused, neglected, or dependent, the clerk shall issue a summons to each party named in the petition, except the juvenile, requiring them to appear for a hearing at the time and place stated in the summons. A copy of the petition shall be attached to each summons. Service of the summons shall be completed as provided in G.S. 7B-407, but the parent of the juvenile shall not be deemed to be under a disability even though the parent is a minor.

(b) A summons shall be on a printed form supplied by the Administrative Office of the Courts and shall include each of the following:

- (1) Notice of the nature of the proceeding.
- (2) Notice of any right to counsel and information about how a parent may seek the appointment of counsel prior to a hearing if provisional counsel is not identified.
- (2a) Repealed by Session Laws 2013-129, s. 11, effective October 1, 2013, and applicable to actions filed or pending on or after that date.

- (3) Notice that, if the court determines at the hearing that the allegations of the petition are true, the court will conduct a dispositional hearing to consider the needs of the juvenile and enter an order designed to meet those needs and the objectives of the State.
- (4) Notice that the dispositional order or a subsequent order:
 - a. May remove the juvenile from the custody of the parent, guardian, or custodian.
 - b. May require that the juvenile receive medical, psychiatric, psychological, or other treatment and that the parent participate in the treatment.
 - c. May require the parent to undergo psychiatric, psychological, or other treatment or counseling for the purpose of remedying the behaviors or conditions that are alleged in the petition or that contributed to the removal of the juvenile from the custody of that person.
 - d. May order the parent to pay for treatment that is ordered for the juvenile or the parent.
 - e. May, upon proper notice and hearing and a finding based on the criteria set out in G.S. 7B-1111, terminate the parental rights of the respondent parent.

(c) The summons shall advise the parent that upon service, jurisdiction over that person is obtained and that failure to comply with any order of the court pursuant to G.S. 7B-904 may cause the court to issue a show cause order for contempt.

(d) A summons shall be directed to the person summoned to appear and shall be delivered to any person authorized to serve process. (1979, c. 815, s. 1; 1987 (Reg. Sess., 1988), c. 1090, s. 2; 1995, c. 328, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2000-183, s. 1; 2001-208, s. 1; 2001-487, s. 101; 2004-128, s. 12; 2010-90, s. 10; 2013-129, s. 11.)

§ 7B-407. Service of summons.

The summons shall be served under G.S. 1A-1, Rule 4, upon the parent, guardian, custodian, or caretaker, not less than five days prior to the date of the scheduled hearing. The time for service may be waived in the discretion of the court.

If service by publication under G.S. 1A-1, Rule 4(j1), or service in a foreign country under Rule 4(j3), is required, the cost of the service by publication shall be advanced by the petitioner and may be charged as court costs as the court may direct. (1979, c. 815, s. 1; 1998-202, s. 6; 1999-456, s. 60; 2003-304, s. 1; 2013-129, s. 12; 2017-161, s. 4.)

§ 7B-408. Copy of petition and notices to guardian ad litem.

Immediately after a petition has been filed alleging that a juvenile is abused or neglected, the clerk shall provide a copy of the petition and any notices of hearings to the local guardian ad litem office. (2003-140, s. 6)

§ 7B-409: Reserved for future codification purposes.

§ 7B-410: Reserved for future codification purposes.

§ 7B-411: Reserved for future codification purposes.

§ 7B-412: Reserved for future codification purposes.

§ 7B-413: Reserved for future codification purposes.